

An analytical study on Sustainable Development: with special reference to Indian Environmental Jurisprudence

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Abstract

Without the making use of natural resources no progress is possible. Additionally, it is fact that environmental deterioration will occur as soon as natural resource are used. Because of this, the nation's endeavors should focus on how resources are used carefully and efficiently for development and how to mitigate environmental deterioration through the selection of policies aimed at restoring the resources and repairing the sabotaged environment. Ultimately, the nation's sustainability cannot be guaranteed by completely prohibiting the exploitation of natural resources or environmental degradation. Here, we see the significance and relevance of the notion on Sustainable Development under this system neither the growth rate will be compromised nor does the environment sustain irreparable injury. This is the universally acknowledged fact. Like every concept or theory sustainable development has a history of origin on its own and difficult to mention the exact moment at which this concept is proposed to maintain equilibrium between the environmental preservation and development of the country.

Keywords: Sustainable Development, Indian Judiciary, Environment, Jurisprudence, India.

Introduction:

India is an emerging nation. When a nation strives for social and economic development, it is considered to be developing. Industries are the foundation of the economy and have a major influence on a nation's economic growth. We misuse our raw material in the name of economic progress. The over misuse of renewable resources by the companies is the main reason behind the pollution and deterioration of the nature. In Article 21 of Indian constitution it has been stated that it protects the right to life, which is violated by the ecological destructions. As the foundation of all basic rights, Art 21 provides everyone the opportunity to live in a healthy environment that is

one free from environmental pollution related health risks.

Right to clean and safe environment is our fundamental right on the other hand right to advancement is also integral part of human life. The right to progress and the right to safe environment may seem contradictory but both are necessary for human existence and well-being. Therefore, we require a philosophy that can ensure the coexistence of both. Development and environment should not coexist at the expenses of one another. Development must occur while exercising caution and guaranteeing environmental preservation. The idea of sustainable development strikes an appropriate equilibrium between development and the environment. It is a tactic for

advancing development without endangering the ecosystem. The Supreme Court noted in *Vellore Citizens* case that it is no longer appropriate to hold that sustainability and development are inconsistent to each other because the solution lies in sustainable development. This idea aims to strike a balance between the growth of country and the protection of the nature.

Historical Background:

The definition of sustainable development which has gained universal recognition was initially stated by the 'World Commission on Environment and Development' in 1987. The commission made it clear that 'Sustainable Development' means and includes the development that satisfies the current needs and demands without compromising the capacity of next generations to satiate their needs too. Before to 1987 in the year of 1972 the idea of sustainable development was personated in different way, which is, actions that needed to be made to protect the environment for both the present and future generations. The phrase 'for present and future generation' incorporated in proclamations number 6 and proclamations 7. Additionally, the idea of sustainable development also described under 1st and 2nd principles of Stockholm Declarations. We can trace the root of the idea sustainable development in 1969, with the occurrence of Santa Barbara Oil spills incident where many countries voiced their concerns about the development that should be connected to the idea of sustainability. According to the Jurists the origin of Sustainability can be found in the year 1713. In contemporary times, the 2002 Johannesburg World Summit on Sustainable Development (WSSD) has been instrumental in delivering comprehensive and effective explanation of the idea of sustainable development also prescribe the method on which the country should fulfill it by securing the harmony in between sustainability and the growth of the state.

Following the report of Brundtland Commission in 1987, several of countries attempted to incorporate the idea of sustainable development into their national development plans. However, after the 1992 Rio de Janeiro conference, it became easier for the nations to incorporate the idea into their national environmental policies.

Sustainable Development in Rio Declaration 1992

The Rio Declaration of 1992 announced a total of 27 of principles. These 27 principles are not associated to the idea of sustainable development. Principles that are firmly connected to the idea of sustainable development analyzed here. Principle 1 of the Rio Declaration declares that individuals ought to be at the core of actual idea of sustainable development. This is necessary for enjoying a healthy and fruitful life which is only achievable when people are living together as one with nature. According to principle 4 another fundamental element of sustainable development is a country should not consider ecological conservation apart from the process of development. Since eradication of poverty is one of the important conditions for achieving sustainable development, principle 5 states that the country and its citizens should take all the reasonable measures to ensure its eradication. Developed nation's position is made clear in principle 7 which also states that it is unquestionable that the developed countries shall not recognize the obligations cherished under sustainable development. Principle 8 makes it very clear that to meet the goals of sustainable development the countries must refrain from engaging in any activity that is not sustainable in terms of production and use of natural resources. Principle 9 requires the countries to share scientific and technical information in order to strengthen their capacity to accomplish sustainable development. Principle 12 proposes for the creation of an international economic system for the achievement of both the economic growth as

well as sustainable development. According to principle 20 countries should encourage women to participate fully to meet the goal of sustainable development in all its dimensions. Women's contribution is required to secure the true success of sustainable development. Principle 21 provides for the involvement of youth is crucial to build a better future and the sustainable development should be achieved by utilizing their ideas, powers and capacity. Principle 22 states that it is impossible to achieve sustainable development if government excludes indigenous people from participation. According to principle 24 one of the significant challenges to achieving sustainable development is war. So the said principle suggests that the countries should avoid the war situation and try to negotiate the dilemma on a non-violent manner. Principle 27 makes it clear that international cooperation is essential to advancing the idea of sustainable development.

Thus, the adoption of idea of sustainable development in each country's environmental legislation and policy became a kind of obligation for the participating countries. It was really very difficult for developed countries to promptly incorporate the idea of sustainable development and to achieve the international standards for complying with the guidelines related to implementing the goal of sustainable development. As a developing country India passed environmental legislations to prevent pollution of the air and water as well as to save its forests and wildlife. However, it is crucial to determine if India has incorporated the notion of sustainable development into its national environmental legislation.

Sustainable Development in India

There are numerous environmental laws in India, including the Wild Life Protection Act of 1972, the Water Pollution Preservation and Control Act of 1974, the Forest Conservation Act of 1980, the Air Pollution Preservation and Control Act of 1981, the

Environment Protection Act of 1986 and so on. Remarkably the notion of sustainable development is not addressed in any of the environmental laws mentioned above. However the National Green Tribunal Act came into existence in the year of 2010 and section 20 of the said Act states that the Tribunal will take the sustainable development concept into consideration when issuing orders, decisions and awards.

It is important to note here that the National Environmental Policy was notified by the Ministry of Environment and Forests in 2006, and that policy carefully incorporates the concept of sustainable development. But unlike the provision of statute the policy is unenforceable in the court of law in India because the policy is not included in any legislation to maintain a stability between the sustainability and the growth of the country.

Plan for Sustainable Development, 2030:

India was a party in the UN-organized meeting on the 2030 Agenda for Sustainable Development in September 2015. The conference was held in the New York. 17 new targets of sustainable development were set forth in this conference. All the member nations promise to eradicate poverty globally and forever. This is now crucial for India to modify the current legislations or enact new ones that include the idea of sustainable development in order to ensure the execution of new 17 goals discussed above.

Indian Constitution and sustainable development:

As well discussed in the precedent of this paper, sustainable development indicates the harmonious construction between the conservation of environment and development of the society. Sustainable development prioritizes the environmental protection goals. Sustainable development calls for right to clean environment. When it comes to right pertaining to environment,

India is not a backward country. Evidence can be lead from the Indian Constitution. India is a democratic country which echoes the chant of "by the people, for the people and of the people". To adhere this principle, good governance is of utmost important for the public welfare. Indian Constitution lays down different provisions for protecting, enforcing the rights of the individual and protection of environment.

In Part III of the Indian Constitution, a number of internationally acknowledged human rights are guaranteed as Fundamental Rights. The Constitution recognizes UDHR-established human rights as key rights. It also contains the Directive Principles in Part IV, which promote good governance in India. The Legislature, Executive, and Judiciary have periodically tried to incorporate various Directive concepts of State Policy (DPSP) concepts in the list of Fundamental Rights to achieve successful government. Thus, the Fundamental Rights and DPSP provide a framework for dignified progress and advancement while protecting human rights. The Constitution recognized and protected socioeconomically disadvantaged classes and castes. Additionally, it considered the needs of the poor and vulnerable. The Constitution provides reservations for Scheduled Castes, Scheduled Tribes, Women, Persons with Disabilities, and some North-Eastern States, showing its concern for minority communities and the needy. The Constitution of India established an Independent Judiciary with Judicial Review to achieve these goals and protect Constitutional government. Indian courts protect Fundamental Rights and the Constitution. The Judiciary promotes good governance by enforcing Constitutional requirements and correcting transgressions, creating a fair and equitable society. Regular elections, civil rights, and an independent judiciary are necessary for efficient administration because they limit government power. These restrictions promote government accountability, another key to good governance.

The Right to Know, Right to Nutrition, and Right to a Clean Environment have been added to Fundamental Rights by the Judiciary. These rights promote government openness and citizen participation. In addition to good government, the Constitution addresses sustainable development. Sustainable development and environmental protection are supported by Article 14, 19(1)(g), 21, 26, 32, 47, 48A, 51(A)(g), 226, 253, Seventh and eleventh Schedule. The Constitution requires the state and its inhabitants to show empathy for the natural ecosystem to protect it. SDGs and Constitutional provisions share some similarities: SDG 1 and 2 aim to end poverty and hunger, which corresponds with the Indian Constitution's Fundamental Rights to enough livelihood and food. Indian Constitution guarantees good health and welfare as a Fundamental Right, which SDG 3 promotes. Quality education is a Fundamental Right under Article 21A of the Indian Constitution, and SDG 4 stresses it. Last, SDG 5 addresses gender inequality, which the Indian Constitution prohibits through sex discrimination laws. Clean water and sanitation are SDG 6. A clean environment, including clean water and sanitation, is a Fundamental Right under the Indian Constitution. SDG 7 guarantees affordable, environmentally friendly energy, a Fundamental Right in the Indian Constitution. The Indian Constitution's Directive Principles of State Policy support SDG 8's goal of good jobs and economic growth. SDG 9 covers commercial advancements, while the Indian Constitution promises open interstate trade and the right to follow any profession as Fundamental opportunities. SDG 10 seeks to reduce imbalances, and the Indian Constitution allows for specific initiatives to address them. SDG 11 promotes sustainable urban management, and the Indian Constitution was amended to empower local self-governing bodies in cities and villages. The Indian Constitution's rights to information, choice, and the ability to follow any profession complement SDG 12's responsible consumption and production. SDG 13

promotes climate action, as does the Indian Constitution. SDG 14 conserves and sustains maritime resources, while SDG 15 protects and restores terrestrial ecosystems. Both the government and citizenry are responsible for protecting these features under the Indian Constitution. Good governance requires peace, fairness, and strong institutions, which SDG 16 encourages. The Indian Constitution supports these ideas. Finally, SDG 17 encourages partnerships to attain these goals, and the Indian Constitution has long supported constructive international engagement. Thus, the Indian Constitution has built the institutions and processes needed for good administration and sustainable development.

The Indian Judiciary on Sustainable Development:

Despite the fact that India was a party of 1972 Stockholm Declaration, as well as 1992 Rio Declaration but India failed to amend its environmental laws to include the idea of sustainable development. At the same time no remarkable initiatives taken by the Parliament of India to introduce new legislation to secure the coexistence of sustainability and the development of the country. This lack of action revealed India's lack of commitment to implementing sustainable development within the country. It was the Honorable Supreme Court of India which recognized the idea of sustainable development as a component of national law in 1996.

In *Vellore Citizens Welfare Forum vs. Union of India* [AIR 1996 SC 2715 at 2720], the Supreme Court of India tried to create a harmony between the ecological safeguard and the development of the nation. The apex court said in this instance that there is no doubt the leather manufacturing industries are contributing towards the economic development of the country but at the same time the hazardous chemicals released from these industries are polluting the neighboring water bodies and the agricultural land. Due to non-accessibility of

complete legislation to give a harmony between ecological safeguarding and security of the enterprises, the Supreme Court had to endorse the universally acknowledged principle of sustainable development while stating that it is now a part of international law and the same can be recognized as a component of the law of the country.

The apex court of India pointed out that the conventional idea of development and the ecological safeguard is contradictory to each other which is not satisfactory because sustainable development is the solution. Ultimately the Supreme Court made it clear that the polluter pays principle, precautionary principle and intergenerational equity are fundamental principles of sustainable development in India.

In *State of Himachal Pradesh vs. Ganesh Wood Products* [AIR 1996 SC 149] case the Supreme Court while nullifying the activity of forest-based industries declared that the idea of intergenerational equality is important to both forest preservation and the concept of sustainable development.

In *Indian Council for Enviro-Legal Action vs. Union of India* [(1996) 5 SCC 281] case the apex court analyzed the idea of sustainable development and conclude that development must not be permitted at the expense of environmental deterioration, simultaneously environment preservation measures should not restrict the national advancement. Both should coexist harmoniously.

In the *M.C. Mehta (Taj Trapezium Matter) vs. Union of India* [(1997) 2 SCC 353] case the Supreme Court of India ruled that while national development is crucial for the nation's economy, the ecology should also be preserved. The idea of sustainable development is able to tackle both perspectives.

The Supreme Court in *Narmada Bachao Andolon vs. Union of India* [2000(10) SCC 664] case

conducted a critical analysis of the idea of sustainable development and concluded that development equates to national economic expansion. Additionally, the highest judiciary suggested that India should adhere to the international idea of sustainable development, which states that the rate of development must be acceptable to the environment. In another words, the country should grow to the level that can tolerable by the nature.

In *M.C. Mehta vs. Union of India* [(2009) 6 SCC 142] case the Supreme Court correctly observed that any act of mining carried out in accordance with the sustainable development is an excellent example of harmony, but any mining activity that is violating the principle of sustainable development. Thus, two aspects of the idea of sustainable development are striking equilibrium between environmental preservation and mining activity, as well as forbidding the activities that would cause environmental degradation.

In the *State of Kerala vs. Kerala Rare Earth and Minerals Limited* [AIR 2016 SC 1817] case the Supreme Court of India analyzed the application of Section 18 of the Mines and Minerals (Development and Regulation) Act, 1957. It concluded that when a legal provision requires the Union government to take adequate measures to protect and develop minerals in a systematic manner and the state government should comply with the principle of sustainable development, as it is now mandated by the constitution, accusations that the government is not doing so are not appropriate.

The Indians courts participation made a significant contribution to the acceptance of the sustainable development idea in India. Therefore, Supreme Court of India stated that and not the legislature, has acknowledged that the notion of sustainable development as a part of the national law. In the light of this perception a large number of initiatives are currently being conducted to make sure that

ecological preservation and development go together.

Conclusion:

In India, sustainable development is widely acknowledged and is currently included into a large number of development programs to guarantee the simultaneous achievement of sustainability and national growth. It is accurate to say that India's environmental plans offered opportunities where the greater objectives of conservation and growth could be met by utilizing the concept of sustainability development philosophy. Though the implementation of the sustainable development idea has sometimes been impeded by environment laws, despite the fact that the idea of sustainable development was adopted from global stage. India the judicial interference in numerous situations have shown that this idea can be successfully applied. Keeping in the mind that agenda 2030 for Sustainable Development, India has a lot of promises that must be fulfilled.

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